



City of McMinnville
Planning Department
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EXHIBIT 2 - STAFF REPORT

DATE: September 21 17, 2017
TO: McMinnville Planning Commissioners
FROM: Ron Pomeroy, Principal Planner
SUBJECT: ZC 11-17 (Zone Change) Land Use Resources, LLC

Report in Brief:

This is the continued consideration of a zone change request from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site. (The remaining acreage is in the flood plain and as such is zoned FP and will remain zoned FP.)

The subject site is located north of NE Cumulus Avenue and east of NE Fircrest Drive and is more specifically described as a portion of Tax Lot 900, Section 23, T. 4 S., R. 4 W., W.M. Attachment A to this staff report contains the Decision, Conditions of Approval, Findings of Fact, Comments, Attachments, and Conclusionary Findings.

This land use request was considered in a public hearing by the McMinnville Planning Commission on August 17, 2017. At that time the Commission heard public testimony, and then elected to close the public hearing to additional oral testimony but to keep the record open for an additional seven days, until 5:00 p.m., August 25, 2017 for receipt of additional written testimony. Then by an additional seven day period for the applicant to provide written rebuttal testimony with that period ending at 5:00 p.m. on September 1, 2017. Review of this application was continued to the evening of September 21, 2107 for Commission deliberation.

This application was deemed complete by the Planning Department on July 10, 2017.

Background:

The site is undeveloped with a large stand of trees, and is located east of and across Fircrest Drive from the Fircrest Community development that provides both assisted living and memory care residential opportunities as well as retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

All adjacent land to the west and northwest is zoned R-4 (Multiple-Family Residential) and R-4 PD (Multiple-Family Residential Planned Development), respectively while adjacent land to the south is zoned AH. The site's southeastern edge is bounded to Oregon Department of Transportation (ODOT) right-of-way providing no access rights to the site.

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The southern portion of the site is relatively flat and generally covered in native grasses that are periodically mowed. The northern portion of the site is characterized by a downward slope of approximately 15 feet in elevation forming a drainage ravine that flows northwesterly eventually emptying into the South Yamhill River beyond the boundary of this site. This northern portion of the property is also covered in a fairly thick stand of, mostly, evergreen trees.

The site is identified as residential zoning on the McMinnville Comprehensive Plan map.

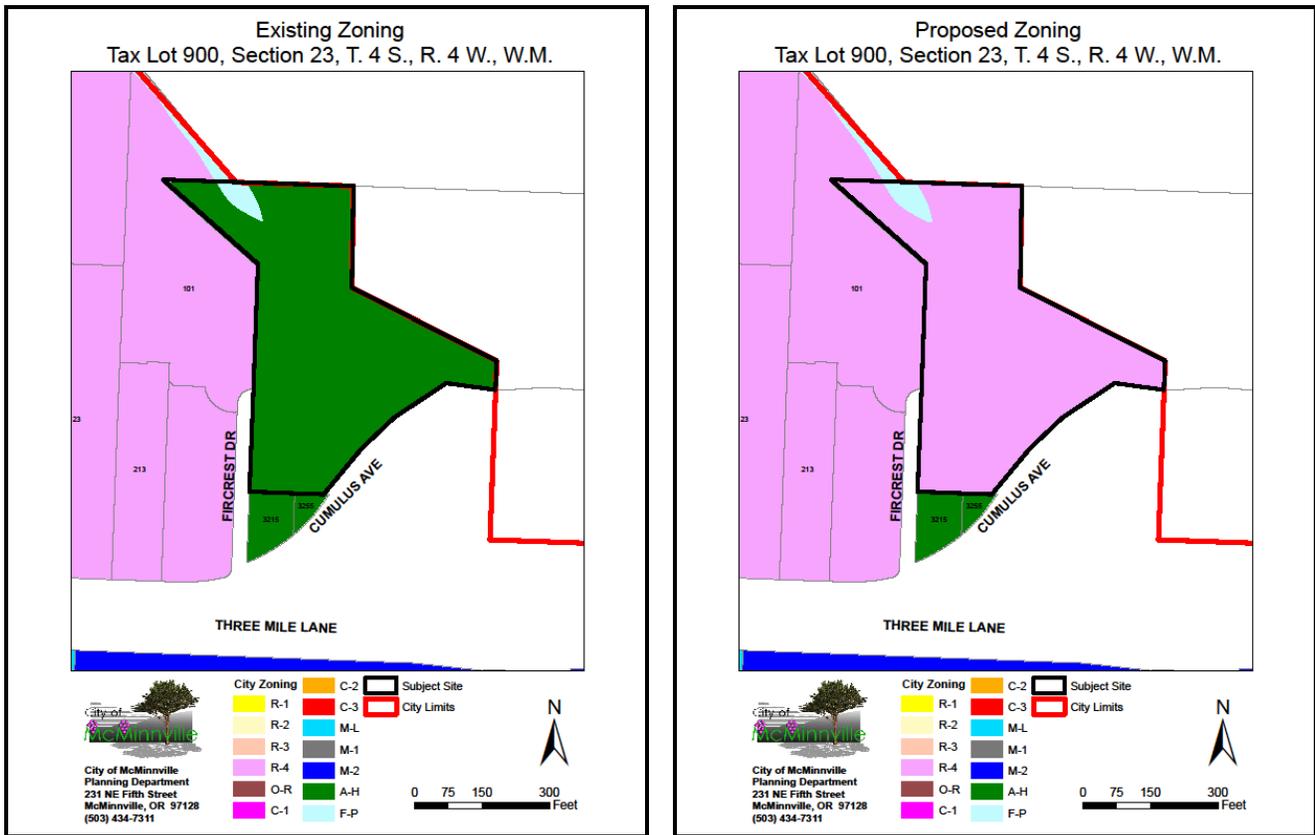
A graphic identifying the subject parcel has been provided below. While the full parcel is outlined in yellow for identification purposes, approximately 1/10th of an acre located in the northwest corner of the parcel is proposed to retain its current F-P (Flood Plain) zone and is not part of this zone change request.



In addition, the two graphics below provide a depiction of current zoning designations on the subject site and surrounding properties in addition to identifying how the zoning map would appear should these zone change requests be approved.

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The Planning Commission’s responsibility regarding this type of land-use request is to hold a public hearing and, following public testimony and deliberation, recommend to the City Council that the application be approved, or approved with conditions, or the Commission may act to deny the application. Such actions shall be based upon the City’s comprehensive plan policies and the review criteria contained in Section 17.74.020 (Comprehensive Plan Map Amendment and Zone Change – Review Criteria) of the McMinnville Zoning Ordinance.

This request, if approved, would allow the applicant to amend the residential zoning designation from AH (Agricultural Holding) to R-4 (Multiple-Family Residential) on approximately 5.2 acres of a 5.3 acre site to afford the ability to pursue a future multiple-family development project on this site as noted in the submitted application, findings, and Traffic Impact Analysis (TIA). Please note that submittal of a conceptual development plan is not a required element of a zone change request and the applicant has not included such as part of this submittal. Additionally, the provision of other site graphics by the applicant are for general illustrative purposes only.

Evaluation of Review Criteria:

An amendment of the zoning map may be authorized provided that the proposal satisfies all applicable review criteria and provided that the applicant demonstrates the following:

Section 17.74.020

- A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.

Comprehensive Plan Policies: There are numerous Comprehensive Plan Goals and Policies that are applicable to this request. Most of those have been well addressed in the applicant’s submitted narrative. Some of the more notable guidance is found in Chapter V (Housing and Residential Development) which includes Goals that speak to quality housing for all city residents and achieving a residential development pattern that is land intensive and energy efficient as well as Policies encouraging opportunities for multiple-

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family development in locations that have sufficient access opportunities and service availability to support such development.

Section 17.74.020

- B. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment.

Existing Development Pattern: The area to the west of this site is comprised of a mix of residential types including the Fircrest Community development that provides both assisted living opportunities and retirement living apartments. Adjacent to and northwest of the site is located the Fircrest Village Condominium development. Further to the west are found the Parkland Village retirement community consisting of single-family attached style residences and the Parkland Village Assisted Care facility. East of the site is land located outside of the McMinnville urban growth boundary and currently in agricultural use.

Section 17.74.020

- C. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district.

Utility and Service Provision: This area is well served by existing sanitary and storm sewer systems as well as other public utilities. The Engineering Department notes that there is an existing 15" diameter public sanitary sewer located to the south of the property in the Cumulus Avenue / Highway 18 right-of-way, which is under the jurisdiction of the Oregon Department of Transportation (ODOT). At the time of development, the applicant will need to design a sanitary sewer system that connects to the existing public system (note that a private sanitary sewer pump station may be necessary to serve the proposed development), and the applicant will need to acquire all permits necessary from ODOT to construct the improvements.

Street System: Regarding adjacent public rights-of-way, a portion of the western edge of the site is site is adjacent to NE Fircrest Drive. The other right-of-way that is adjacent to this site is Oregon Department of Transportation (ODOT) right-of-way located along the site's southeasterly edge; as the ODOT right-of-way is intended to serve as portion of a fully constructed future clover-leaf interchange to serve Highway 18, local access to this roadway is not possible. Access to serve future development of this site would be provided from Fircrest Drive.

NE Fircrest Drive has been constructed to a 26-foot wide, curb to curb, paved section within a 30-foot wide public right-of-way. Currently, there is no sidewalk installed along the property's Fircrest Drive frontage. At the time of development, 11-feet of additional right-of-way, to accommodate a planter strip and sidewalk, will need to be dedicated along the site's Fircrest Drive frontage. Additionally, a 10-foot wide public utility easement shall be granted along the Fircrest Drive frontage to enable adequate service to this site.

As noted in comments by the City's Engineering Department, a Traffic Impact Analysis (TIA) of projected vehicular impacts to the surrounding street network resulting from development of a multiple-family project on the subject site has been provided as part of the applicant's submittal with a conclusion that the surrounding network has the capacity to sufficiently accommodate the anticipated traffic; the TIA model assumed the site's maximum development capacity of 95 multiple-family residences.

Based on the analysis provided in the submitted TIA, the projected maximum residential yield on the 5.2-acre site of this zone change request is 95 multiple-family residential units. The corresponding trip generation from this site then is limited to a maximum total of 48 morning peak hour trips and a maximum total of 59 evening peak hour trips as referenced in the Executive Summary, (page 1) of the TIA. A condition speaking to this maximum trip generation will be recommended as a condition of approval in the associated Decision Document.

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Site Hydrology: Due to the presence of the on-site drainage ravine and the approximately one-tenth acre of floodplain located at the parcel's far northwest end, the developer will be required, at the time of development, to acquire any necessary erosion control permits from the Oregon Department of Environmental Quality (DEQ), and any necessary wetlands / waterway permits from the Division of State Lands (DSL) and the US Army Corps of Engineers (COE) to address.

R-4 Multiple-Family Residential Zone:

The applicant's materials submitted to support this zone change application speak to a future intent to development multiple-family residential on this property. While the applicant has not provided a conceptual development plan with this zone change proposal, and is not required to do so at this time, it is instructive to note the permitted and conditional uses that could potentially locate on R-4 zoned land.

R-4 Multiple-Family Residential Zone:

17.21.010 Permitted Uses. In an R-4 zone, the following uses and their accessory uses are permitted:

- A. Single-family dwelling
- B. Two-family dwelling
- C. Multiple-family dwelling
- D. Accessory dwelling unit (ADU) subject to the following standards:
 1. The accessory dwelling unit may be established by:
 - a. Conversion of an attic, basement, or garage or any other portion of the primary dwelling;
 - b. Adding floor area to the primary dwelling, including a second story; or
 - c. Construction of a detached accessory dwelling unit on a lot with a primary single-family dwelling
 2. The square footage of the accessory dwelling shall not exceed 40 percent of the primary dwelling exclusive of the garage, or 800 square feet, whichever is less. The minimum area shall not be less than 300 square feet.
 3. The accessory dwelling shall meet all applicable standards for this zone including, but not limited to, setbacks, height, and building codes in effect at the time of construction.
 4. The structure's appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit.
 5. One additional off-street parking space shall be provided (in addition to any off-street parking required for other uses on the same parcel or lot).
 6. The accessory dwelling unit must have independent services that include but are not limited to water, sewer, and electricity.
 7. Not more than one accessory dwelling unit shall be allowed per lot or parcel.
 8. The accessory dwelling unit shall contain a kitchen, bathroom, living and sleeping area that [is] completely independent from the primary dwelling.
 9. The property owner shall reside on site within the primary dwelling unit.
 10. Manufactured homes, recreational vehicles, motor vehicles, travel trailers and all other forms of towable or manufactured structures shall not be used as an accessory dwelling unit.
- E. Condominium
- F. Boardinghouse, lodginghouse, or roominghouse
- G. Single-family dwelling having a common wall with one or more other single-family dwelling, provided:
 1. Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot.
 2. The dwelling shall have a common wall at the "zero" lot line.
 3. Each lot shall comprise not less than twenty-five hundred square feet in area.
 4. Lot area and setback requirements will apply to the combined dwelling units as one structure and the combined lots as one lot.

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5. Each dwelling unit must have independent services which include, but are not limited to sewer, water and electricity.
 6. The common wall shall be a fire wall, and shall be a kind of construction that will insure fire protection as per the Uniform Building Code as adopted by the State
 7. Common wall, single-family structures shall be required to provide a sound barrier at the common wall which has a sound transmission class rating of not less than fifty (50) as per the Uniform Building Code as adopted by the State. The building technique used to achieve the sound barrier rating shall be the responsibility of the general contractor and will be accepted upon inspection if it meets the code requirements and is supported by proof of meeting sound emission controls as specified.
 8. Existing duplexes will be allowed to be converted to common wall, single-family units if they meet the provisions of this title and were constructed after January, 1974.
- H. Day care facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein; and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Twelve or fewer people are present at any one time at the center.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
 4. That a certificate of approval be obtained for facilities with seven or more people as defined by ORS 418.810.
- I. Residential Home as defined in Chapter 17.06 (Definitions)
- J. Residential Facility as in Chapter 17.06 (Definitions)
- K. Social relief facility, under the following provisions:
1. The structure is maintained in its residential character, operators own, lease, or rent the property and reside therein, and the center is operated at a usage level equal to or subservient to the residential use of the structure.
 2. Five or less people unrelated to the operator, reside at the home at any one time.
 3. Requirements of the Oregon State Structural Specialty and Fire Life Safety Code (UBC), as amended, are met.
- L. Home occupation subject to the provisions of Chapter 17.67 (Home Occupations)
- M. Mobile home subdivision, provided that the provisions of both the McMinnville Subdivision Ordinance and the Mobile Home Development Ordinance are met and that a minimum of ten contiguous lots are developed solely for mobile home occupation;]
- N. Model home subject to the provisions of Section 17.54.060 of this ordinance
- O. Public park and recreation area
- P. Sewage pump station
- Q. Mobile home park, subject to the provisions of the Mobile Home Development Ordinance
- R. Bed and breakfast establishments, subject to the provisions of Section 17.12.010(N)
- S. Satellite dish, provided such dish is screened from abutting or facing residential properties by a sight obscuring fence, wall, or planting.
- T. Vacation home rental, subject to the provisions of Section 17.12.010(O).

17.21.020 Conditional Uses. In an R-4 zone, the following uses and their accessory uses may be permitted subject to the provisions of Chapters 17.72 and 17.74.030:

- A. Campus living organization (fraternity, sorority or dormitory)
- B. Cemetery
- C. Church
- D. Community building, including library
- E. Day care facility, when the following situations exist:
 1. The structure is not used as a residence by the operators, and/or
 2. Thirteen or more people are present at any one time;
 3. That a certificate of approval be obtained for the facilities with seven or more people as required by ORS 418.810.

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- F. Social relief facility, when the following situations exist:
 - 1. The structure is not used as a residence by the operators, and/or
 - 2. Six or more people unrelated to the operator reside at the home at any one time.
- G. Farming and keeping of domestic animals
- H. Golf course, except driving range and miniature golf course when operated as a business
- I. Home office of a physician or minister
- J. Hospital and clinic
- K. Nursing/convalescent home
- L. A multi-family dwelling constructed to a higher density than normally allowed in the R-4 Multiple-Family zone provided that the following conditions are met. It is the applicant's burden to show that the conditions have been met:
 - 1. That public and private utilities and services would not be overtaxed by the proposed development. Utilities and services include, but are not necessarily limited to, water, sanitary sewer, public schools, fire protection, police protection, electricity, natural gas, and telephone service.
 - 2. That the transportation network in the immediate area as well as in the adjoining areas is capable of handling the prospective increase in traffic flow.
 - 3. That off-street parking be provided at the rate of one and one-half parking stalls per unit. A variance to this requirement may be considered by the Planning Commission when the proposed housing structure is limited solely to elderly residents.
 - 4. That adjacent properties in other ownerships would not be caused to be limited to a lesser density than allowed in the zone as a direct result of the proposal using a "share" of that adjacent property's public or private utilities or services.
 - 5. That the provisions of this section may be utilized only in the core area, defined as that area bounded by First Street, Fifth Street, Adams Street, and Johnson Street
- M. Public or private school or college
- N. Electrical power substation
- O. Water reservoir
- P. Windmill, for generation of electricity or pumping water
- Q. Bed and Breakfast establishment, provided:
 - 1. That three or more guest sleeping rooms are provided on a daily or weekly basis for the use of six or more travelers or transients at any one time.
 - 2. That a minimum of one off-street parking space be provided for the first two guest sleeping rooms with an additional parking space for each additional guest sleeping room. The required off-street guest parking area may be provided within 200 feet from the bed and breakfast establishment.
 - 3. That signing be limited to only one non-illuminated or indirectly illuminated wooden sign not exceeding six square feet of face area.
 - 4. That smoke detectors be provided as per the requirements for "lodginghouses" in Ordinance 3997.
- R. Wireless communications facilities, not to include antenna support structures and their associated facilities subject to the provisions of Chapter 17.55 (Wireless Communications Facilities)
- S. Fire Service Substation.

Below are some of the standards of the R-4 zone that would be applicable to development of this site in the future should this current request be approved. This information is offered only as an additional observation relative to the requested zoning redesignation. If approved, some of those applicable opportunities and development standards incumbent upon future development could include:

17.21.030 Lot size. In an R-4 zone, the lot size shall not be less than five thousand square feet, except that the lot area for common wall, single-family lots shall not be less than two thousand five hundred square feet per family.

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17.21.040 Yard requirements. In an R-4 zone, each lot shall have yards of the following size unless otherwise provided for in Section 17.54.050:

- A. A front yard shall not be less than fifteen feet;
- B. A side yard shall not be less than six feet, except an exterior side yard shall not be less than fifteen feet;
- C. A rear yard shall not be less than twenty feet;
- D. Whether attached to a residence or as a separate building, a covered storage facility for a vehicle on which the main opening is toward a street shall be located not less than twenty feet to the property line bordering the street;
- E. All yards shall be increased, over the requirements of this section, one foot for each two feet of building height over thirty-five feet.

17.21.060 Density requirements. In an R-4 zone, the lot area per family shall not be less than fifteen hundred square feet for each unit with two bedrooms or less, and not less than seventeen hundred fifty square feet for each unit with three bedrooms, and an additional five hundred square feet for each additional bedroom in excess of three in any one unit. [..]

While the above information is presented relative to the requested R-4 zoning designation, it is important to note that the applicant's traffic impact analysis was prepared based upon the amount of land suited for development (removing flood plain, topographical and woodland compromised land) and the resulting potential number of residential units that could be constructed on that acreage to assess the traffic impact upon the surrounding street network. The results of this model analysis identified the maximum a.m. and p.m. peak hour trips volumes resulting from that conceptual amount of residential development on this site. Although the density calculation noted above would potentially yield an increased number of developable multiple-family residential units on the entire site, the applicant's submitted materials and TIA did not analyze that, resulting in a traffic capacity as a condition of approval.

Discussion:

Decision Document Attachment 2 (letter from Tom and Kath Murtiashaw dated August 16, 2017 and received August 17, 2017) was presented during the public testimony portion of the August 17, 2017 public hearing.

Below is a summary of the testimony received since the public hearing on Thursday, August 17, 2017;

The Planning Commission kept the record open for additional written public testimony for seven days.

Written public testimony received by the McMinnville Planning Department between Friday, August 18, 2017 and 5:00 p.m., Friday, August 25, 2017.

- Decision Document Attachment 3 - August 22, 2017 Email from Lee Eggers received August 22, 2017
- Decision Document Attachment 4 – August 24, 2017 Letter from John and Sharon O'Gieblyn received August 24, 2017
- Decision Document Attachment 5 – August 24, 2017 Email from LaVerne Rickard received August 24, 2017

The applicant, Land Use Resources, LLC, then had seven days extending from 5:01 p.m., Friday, August 25th, 2017 to 5:00 p.m., Friday, September 1, 2017 to submit written testimony. The applicant provided testimony during that period.

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Applicant's written response testimony provided on September 1, 2017.

- Decision Document Attachment 6 – September 1, 2017 Email from Denny Elmer representing Land Use Resources, LLC, received September 1, 2017.

Summary of Public Written Testimony Comments:

Much of the written testimony received since this proposal's August 17, 2017, public hearing is similar to that received during the public testimony portion of that public hearing. Those concerns are summarized below and can be reviewed in their original entirety by review of the attachments to this staff report.

Adequacy of utilities to serve the site:

Summary – Will existing public utilities have the capacity to sufficiently serve the future development of this site?

Response – This request to rezone the property to match that of existing zoning designation of adjacent properties to the west has been reviewed by the service and utility providers: McMinnville Fire Department, Police Department, Engineering Department, Building Department, Wastewater Services, Parks Department, McMinnville Public Works, McMinnville Water and Light, McMinnville School District No. 40, Yamhill County Public Works, Frontier Communications; Recology Western Oregon; Comcast; Northwest Natural Gas, and Oregon Department of Transportation. All of their comments have been included in this Staff Report and Decision Document (Attachment A) and have raised no concerns regarding their ability to provide sufficient services to support the future residential development of this site.

Emergency service access to the site and surrounding neighborhood:

Summary – Will emergency service providers retain the ability to sufficiently serve the surrounding neighborhood upon future development of this site?

Response – The McMinnville Police and Fire Departments, as noted above, reviewed this request and raised no concerns relative to their ability to continue to provide sufficient services to the surrounding neighborhood as well as this site upon future development.

Environmental impact:

Summary – What will the environmental impact be on the natural area that exists largely on the northern portion of the site?

Response – Condition of Approval number one requires a preservation plan for this site prior to approval of any development. Specifically, this condition states:

“That, prior to development, the applicant shall submit a preservation plan relative to the natural drainage swale and wooded area of the site, as far as practicable, as part of any development proposal. This plan shall be reviewed and approved by the McMinnville Planning Director prior to approval of any development plan for the site.”

With a Planned Development request not being part of this zone change application, and no specific development plan provided as part of this proposal to rezone the site, and not required, this condition is as far reaching as current requirements allow regarding the protection of the site's natural area as a land use action. This condition does obligate any future development plan to include a preservation plan that will be reviewed by the Planning Director as assurance that every effort will be made to conserve this area in its natural state.

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Density and livability:

Summary – What about the effects upon the livability of the surrounding area should this site develop with multiple-family residences?

Response – This site has been designated as Residential on the McMinnville Comprehensive Plan Map since 1980 for the purpose of residential development along this portion of the Highway 18 corridor. The applicant is requesting that this site be rezoned to match that of adjacent properties to the west to allow for future residential development. Such future development will have to comply with all applicable land use requirements just as the existing development to the west did when those properties developed. Additionally, as noted above, all local service and utility providers, as well as the McMinnville City Manager, City Attorney, and the Yamhill County Planning Department have reviewed this proposal and find no conflicts with their interests. The Decision Document (Attachment A) to this Staff Report also provides findings relative to all applicable Goals and Policies of the McMinnville Comprehensive Plan and finds that this proposal meets or exceeds those requirements. In review of the questions raised by opponents to this application, staff does not find evidence to the contrary.

Safe transportation network:

Summary – Does the surrounding transportation network sufficiently accommodate the trip volume modeled in the applicant's TIA?

Response – The answer to this question has already been provided in the applicant's TIA and in the McMinnville Community Development Director's review of the surrounding street network and that answer is "yes" the surrounding network can sufficiently accommodate the volume modeled. However, the opponent testimony also asked a capacity question specific to the intersection of NE Cumulus and NE Fircrest. In response, the Community Development Director reviewed specific traffic counts and proposed traffic that would result in development of 95 multiple-family residential units on the subject site. That analysis and response is provided in a memo dated August 23, 2017, and included as Decision Document Attachment 7 to this Staff Report.

In sum, the conclusion of that analysis states: "The total expected daily traffic on NE Fircrest Drive, including existing and proposed developments, is 1,058 trips per day. Thus, the expected traffic on NE Fircrest Drive is within the 1,200 vehicle per day designation for local residential streets and, as staff noted at the public hearing, there is adequate capacity to serve the proposed development."

Since a condition of approval for the rezone includes a traffic limitation if the development proposed is larger than 95 units or the maximum number of trips allowed with this land use decision, the developer will be required to conduct a new traffic impact analysis.

Additional email testimony was received on August 22, 2017 (Decision Document Attachment 3), citing a property line encroachment issue stating:

"Be advised that a notice of property line encroachment has been sent to Mr. Denny Elmer in the matter of Docket ZC 11-17. This encroachment was discovered in October of 2013 when Fredrick Motor Company surveyed for future development. At that time, he did not want to deal with the issue and differed it to the new owner when it sold. Since Mr. Elmer is planning on the development, we have advised him of the encroachment of 557.16 feet of the west boundary line which consists of approximately .22 acres."

-- Lee Eggers, President Fircrest Village Condominiums

This is a matter between adjacent land owners and is not in the purview of the review of this zone change request.

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Summary of Applicant's Written Testimony:

Land Use Resources, LLC provided a written rebuttal to the public testimony comments that the City of McMinnville received via email on September 1, 2017, prior to 5:00 pm. (Decision Document Attachment 6)

Summary – The applicant states that, between their TIA that was provided as part of the original application submittal, the memo from Community Development Director, Mike Bisset, and the analysis provided in the previous Staff Report and Decision Document, that the concerns of the opponents are sufficiently addressed and requests that this zone change request be approved.

Fiscal Impact:

None

Planning Commission Options:

- 1) **DELIBERATE** and recommend that the City Council **APPROVE** the application, per the decision document provided which includes the findings of fact.
- 2) **DELIBERATE** and recommend that the City Council **DENY** the application, providing findings for the denial as part of the motion to deny,.

Recommendation/Suggested Motion:

The Planning Department recommends that the Commission make the following motion recommending approval of ZC 11-17 to the City Council:

THAT BASED ON THE FINDINGS OF FACT, THE CONCLUSIONARY FINDINGS FOR APPROVAL, AND THE MATERIALS SUBMITTED BY THE APPLICANT, THE PLANNING COMMISSION RECOMMENDS THAT THE CITY COUNCIL APPROVE ZC 11-17 SUBJECT TO THE CONDITIONS OF APPROVAL AS RECOMMENDED BY STAFF.

RP:sjs